

Rule of Law II: The Great Debate over Harry Truman's National Security State.

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Rule of law controversies, of course, are not just played out in the Courts. Just after World War II, there was a fervent national debate over Harry Truman's efforts to layer a "national security state" on to FDR's "welfare state." My first rule of law article was a macro summary encompassing over 2000 years. This article examines rule of law development with regard to certain issues in the brief period of US history 1945 into 1952.

At the end of World War II, Truman had no choice but to demobilize the armed forces and to disassemble the regulatory apparatus that had gathered the resources of the country in support of the "war effort." However, Truman was eminently aware of a threat of an aggressive post war Soviet Union. At Potsdam-scarcely two months after FDR's death, Truman drew a line barring Soviet influence in the western administrated sectors of Germany. Truman also insisted that the countries of Eastern Europe should have free elections. Truman was personally pugnacious in confronting the Soviets- and cut off aid to the Soviet Union after the surrender of Germany. Yet, there was not yet an articulated philosophy as to how the US would handle the threat.

The "great debate" probably commenced with the State Department Soviet expert George Kennan's "long telegram" from Moscow in March 1946. In the telegram Kennan noted that Soviet ideology advocated the collapse of Western institutions but that its dogma dictated that the collapse would be inevitable as the result of the natural weaknesses of the capitalist system. Therefore, Kennan took a long view consistent with the long view of the Soviets. Soviet pressure should be resisted with western pressure to counteract any aggressive moves. Over time, he

believed that the Soviet system would collapse. Churchill having already uttered the words the “iron curtain,” you can almost visualize a policy to contain communism behind the iron curtain.

A rather explosive Clifford/Exley report ordered by Truman was produced to him in the fall of 1946, but was “placed in a drawer” by Truman. The report found that the Soviets were not disarming, that they were forming alliances with communist parties throughout the world, and the Soviets were attempting to expand their influence into eastern Europe, the Mediterranean and the middle east. The British presented Truman with an opportunity to make a stand in early 1947. They had made commitments to a somewhat corrupt and repressive Greek government to assist it defending itself from communist guerrillas. In March 1947, his “Truman doctrine” inserted the US into British shoes and made a commitment not only to Greece but also to Turkey and to all regimes threatened by communist aggression. Truman expanded Kennan’s containment theory to include a “domino theory.”

Truman wished to preserve social programs that were part of the FDR welfare state- and to build a national security apparatus as well. In order to keep the defense budget closer to a peace time level, Truman intended to use American air power and atom weaponry in conjunction with manpower from allies. Truman’s approach to building a national security presence was informed by the American World War II experience. During the war, the “jerry-built” regulatory apparatus hung together through the force of the personalities of its leaders. Also, the army and the navy had fought over their respective uses of air power as well as over scarce resources.

The administration proposed a new Office of the Secretary of Defense to coordinate the armed forces, a munitions board, a resources board and a National Security Council to bring civilian heads such as the Secretary of State into coordination with military heads. The

administration proposed the CIA to respond to the Soviet espionage threat. In July 1947 George Marshall proposed a new plan later known as the “Marshall Plan” to help Europe rebuild. (This had a selfish purpose to make the manpower of Europe available through the strengthened armies of our allies.) The National Security Act, the “magna carta” of the National Security state, passed in the summer of 1947.

Truman got his way but he stirred up a controversy over the American drift towards a “garrison state.” Conservatives largely worried over the power of the national security state enhancing the power already flowing to the administration as the result of the welfare state. Liberals were concerned about an isolationist America barricaded behind our coastlines. Dozens of prominent journalists, academics and philosophers carried the debate forward as well as generals, admirals, ex-president Hoover and other political leaders including Joe Kennedy and Robert Taft. Events heavily influenced the debate. In 1948 Czechoslovakia fell to the communists and the Soviets blockaded West Berlin.

In January 1949, Truman announced a Point IV program to assist underdeveloped nations--a further effort to thwart the spread of communism. That year, a more combative leader, Dean Acheson, succeeded George Marshall as Secretary of State, China fell to communists and the Soviet Union exploded the A bomb. In the spring of 1949, there was an admirals’ rebellion that confirmed that the armed services were not capable of working together under the weak Office of the Secretary of Defense. The admirals publicly denounced the air force.

It was most probably in 1949 that Dwight Eisenhower first came to his opinion about the danger of a military-industrial elite. Eisenhower as titular but powerless head of the Joint Chiefs had to contend with the separate armed services funded by the arms manufacturers to lobby

Congress and the public as to their respective views of the priority weapons to be funded by Congress. There was a great public wrangle between the Navy seeking appropriations for a carrier based deterrence strategy as opposed to the Air Force's insistence on funding the B-36 bomber. There were also corruption scandals in the defense area. Eisenhower was smoking four packs of cigarettes a day and was close to a mental breakdown. Truman sent him to the Carolinas for six weeks to recover from the extreme stress caused by the interservice rivalries.

As a result, Congress passed the Defense Reorganization Bill in the summer of 1949. It elevated the Secretary of Defense to cabinet level and the chair of the Joint Chiefs to chief military advisor to the President and the Secretary of Defense. The service chiefs were no longer on the National Security Council and no longer had direct access to the President. The noisy debate in the public press and the Congress did not abate. In 1949, Acheson negotiated the NATO Treaty which led to a further debate over foreign control of our military resources and our war-making decision powers.

In January 1950, Truman responded to the increased threat of the Soviets by agreeing to permit the development of the H bomb. Once again he countered the Soviets with a strong move, yet one which permitted him to continue to restrain the growth of the military budget. It is not coincidental that George Kennan resigned from the State Department in January. Truman's January 1950 proposed budget for fiscal 1951 of \$42 billion included \$14 billion for defense. In March 1950, Truman received the "NSC-68" report which advocated a major build up of U.S. forces to respond to Soviet aggression. Truman also placed this report "into a drawer."

On holiday in June, he left for Missouri. While there, Truman received word that the North Koreans had invaded South Korea. Back in Washington, in rushing to a meeting, Truman was

heard to exclaim, “By God, I’m going to let them have it.” The U.S. went to the aid of South Korea and the 1951 actual military expenditures were three times Truman’s January 1950 budget requests. It can be debated as to whether the U.S. could have conducted the Korean War without a significant increase in the military budget. After General MacArthur threatened to use the A bomb in China, Truman recalled MacArthur despite his poll rank popularity being about double that of Truman’s.

Since the civilian leaders are elected in a representative democracy, it is an important tenet of rule of law democracy that the military be under control of the civilian leaders. Commencing in 1947 with the passage of the National Security Act, its amendment in 1949 by the Defense Reorganization Act, and with Truman’s firing of Douglas MacArthur, we have more firmly established the principle of civilian control over the military. Even in the national turmoils resulting from the Vietnam and Iraq wars, there has there been no serious issue raised as to the military not being firmly under civilian control.

From 1947, with passage of the National Security Act, until the present day we have had a significant military capacity in peace and in war. As current foreign policy debates unfold and as the Iraq war abates, we perhaps will revisit some of the questions raised in the great debates of the late 1940’s into the 1950’s. In 1949, Republican Congressman James L, Dolliver of Iowa:

wondered if the United States was marching down the same path to perdition taken by other countries whose governments had constructed a vast war machine. He worried that national security managers, especially military leaders, would be seduced by the resources at their disposal and would multiply the country’s commitments around the world, ignore peaceful strategies, and rely too heavily on military might.

Hogan, *A Cross of Iron*, at p. 180 (Cambridge University Press 1998.) (The principle source for

this article.)

I leave you with some questions:

1. Did Congressman Dolliver raise “rule of law” issues pertinent to the issues of today?
2. In responding to that of Soviet aggression over the years 1946 until the fall of the Soviet Union, did the U.S. follow “a policy of patient but firm and vigilant containment of pressure against the free institutions of the Western world” as proposed by George Kennan? (Kennan himself was somewhat bitter. He stated:

We paid with forty years of enormous and otherwise unnecessary military expenditures. We paid through the cultivation of nuclear weaponry to the point where the vast and useless nuclear arsenal had become (and remains today) a danger to the very environment of the planet...)

3. Did George Kennan’s proposed containment policy for the U.S. have anything to do with the Rule of Law?
4. Do you agree that passage of the defense reorganization bill of 1949 and Truman’s recall of Douglas MacArthur have had a lasting effect in establishing civilian control over the military?